

REVISED COMMENTS (minor additions on Pages 6 and 14) 7/11/05 7:30 a.m.

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THE DENALI COMMISSION CODE

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CHAPTER 1 - THE CODE

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CHAPTER 2 - COMMISSION PARTNERSHIP

CHAPTER 3 - COMPOSITION OF THE COMMISSION

CHAPTER 4 - COMMISSION MEETINGS

CHAPTER 5 - COMMISSION STRATEGIC PLAN AND ANNUAL WORKPLANS

CHAPTER 6 - BUDGET AND MANAGEMENT

Chapter 7 - INSPECTOR GENERAL

CHAPTER 1- THE CODE

Section 1.1 The Code.

The Denali Commission (hereinafter referred to as the Commission) establishes this Code to provide a clear statement of current Commission policies and operating procedures. The Code derives its authority from the Denali Commission Act of 1998 (Division C, Title III. PL 105-277), as amended, hereafter referred to as the Act. The Code was adopted on April 7, 2000 and may be modified by a majority vote of the Commission.

Section 1.2 Reserved Powers.

The Commission may amend, suspend or revoke any Commission policy or interpretation thereof whether or not incorporated into this Code by majority vote.

Section 1.3 Codification Authorities.

The Federal Co-Chair shall codify all Commission actions on policy and procedural matters, to consolidate and index the subject matter, to delete expired, superseded or unnecessary material, to make clarifying editorial changes, and, subject to the requirements of the Act, to make appropriate revisions and additions to the Code adopted by the Commission.

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#### **Section 1.4 General Guidelines.**

This Code shall be consistent with the purposes of the Act and nothing in this Code shall be interpreted to conflict with the basic purposes and intent of the Act.

#### Section 1.5 Cost Effectiveness

The Denali Commission Act charge to the Commission "to deliver the services of the federal government in the most cost-effective manner practicable by reducing administrative and overhead costs" shall a guiding principle in all administrative and programmatic actions of the Commission.

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### **CHAPTER 2 - COMMISSION PARTNERSHIPS**

#### **Section 2.1 Commission Partnerships.**

The existence of the Commission manifests recognition by the Congress of the United States that a joint federal-state-local effort in Alaska is essential to the effective implementation of the Commission's objectives, as set forth in the Act. Congress recognized that the combined talents, resources and insights of the federal government, the state government, local governments and other organizations are required to make maximum use of the programs and funds authorized under the Act. The Commission therefore embodies the concept of a joint decision-making process that can provide for the efficient delivery of services to Alaska.

### **CHAPTER 3 - COMPOSITION OF THE COMMISSION**

#### **Section 3.1 Commission Members.**

##### **Federal Co-Chair**

The Federal Co-Chair is primarily responsible for facilitating development of federal policy positions, for coordinating with federal departments and presenting the Commission's adopted legislative and budgetary proposals to the Executive branch and Congress. The Act provides that the Federal Co-Chair may, without regard to the civil service laws and regulations, appoint such personnel as may be necessary to enable the Commission to perform

its duties. The fundamental role of hiring, terminating, directing, and supervising the Commission Staff rests with the Federal Co-Chair.

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**State Co-Chair** The Act provides that the Governor, or his/her designee shall be Co-chair of the Commission. The state may also choose to establish the position of state representative on the Commission staff to perform a liaison and advisory role. The Act recognizes that the fundamental initiative for identification of problems and the development of plans to address them rests with the state.

**Other Commission Members** Five Commissioners are appointed by the Secretary of Commerce, and shall be either the President or a designee from each of the following state-wide organizations:

The Alaska Federation of Natives.

The Associated General Contractors of Alaska.

The University of Alaska.

The Alaska Municipal League.

The Alaska AFL-CIO

The Act recognizes the role of Commissioners as having co-equal voting responsibility for matters brought to them for decision.

### **Section 3.2 General Powers and Duties.**

**Scope of Commissioners' Responsibilities** There is no area of Commission activity that is beyond the responsibility of any member of the Commission, although the federal and state partners are assigned different areas of primacy and responsibility by the Act.

**Commission Commitment to Consensus Decision-Making** The Act envisions that consensus decision-making will strengthen the Commission partnership and enhance its effectiveness. The Commission is therefore committed to consensus decision-making whenever reasonably possible.

**Voting by the Commission** If consensus cannot be reached after a reasonable period of time, decisions by the Commission shall

require an affirmative vote by a majority of the seven Commission members. The Federal Co-Chair shall vote last.

**Alternates** Any Commissioner may designate an alternate to represent them at one or more meetings of the Commission. He/she may do so by notifying the Federal Co-Chair in writing of the name of the person appointed by him/her as his/her alternate a minimum of 48 hours prior to a meeting. A Commissioner may name a standing alternate in lieu of case-by-case designation. Authorized alternates may exercise full authority of a Commissioner.

**Committees** The Commission may, from time to time, establish committees or task forces it deems advisable in order to assist it in carrying out its functions. The Commission may make available appropriate professional and supporting personnel as required to assist such committees or task forces in performing their functions.

**Co-Chairs' Joint Responsibilities** The Federal and State Co-Chairs shall jointly have the following general responsibilities:

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Provide a continuing overview of program implementation to ensure conformance with Commission policies;

Seek to resolve issues or disputes;

In consultation with Commissioners, draft Commission meeting agendas;

Take such other actions and perform other functions as the Commission may delegate.

The Co-Chairs jointly may establish procedures, not inconsistent with Commission policies, to further the effective execution of its functions, and shall report thereon to the Commission at the next regular meeting following any such action.

## **CHAPTER 4 - COMMISSION MEETINGS**

### **Section 4.1 Commission Actions.**

Decisions by the Commission may only be made in meetings where public notice has been given as described in Section 4.2 of this Code.

Resolutions ordinarily will be used for funding decisions and for establishing Commission policy and direction. Motions will

generally be used for routine actions such as approval of meeting minutes, agendas, and schedules.

Unless otherwise specified, all Commission actions shall take effect when consensus or majority votes are recorded and remain in effect until superseded.

#### **Section 4.2 Meetings, Public Participation, and Public Hearings.**

**Public Information and Participation** A meeting is defined as a quorum (four or more) of Commissioners or alternates gathered to discuss Commission business.

All Commission meetings, except as provided for in this Section, shall be open to the public, and provide an opportunity for public comments on all substantive agenda items (policies, priorities, project or program funding, etc.) prior to a decision by the Commission. All Commission decisions will be made in public sessions.

The Federal Co-Chair shall ensure that adequate notice (at least 30 days for routine full Commission meetings and public hearings and no less than 5 days for other meetings) is given to the public of all meetings. A meeting agenda outlining all major actions to be considered shall be available to the public at least 14 days in advance of a routine full Commission meeting or public hearing.

The Commission may hold executive sessions as necessary to consider privileged and confidential matters, the public knowledge of which would:

- have an adverse effect on the finances of the Commission;

- prejudice the reputation or character of any person, provided the person may request a public discussion;

- divulge proprietary technical and business information which could compromise an applicant's ability to protect intellectual property and business strategies;

- violate the confidentiality of the attorney-client privilege; or

- violate federal or state law providing for matters which legally must be kept confidential.

The Commission shall meet in public session to consider a motion to meet in executive session. The motion shall describe clearly the matter to be discussed in closed session without defeating the purpose of discussing it in closed session. Upon a majority vote of all Commission members, the Commission may go into executive session. No action will be taken in executive session. The Commission shall reconvene in public session.

Agenda materials and supporting information shall be available at the Commission office at least 14 days prior to a meeting. A reasonable number of copies of the same, based on an estimate of the number of public attendees, shall be made available to the public at all meetings.

**Frequency and Types of Meetings** The Denali Commission will hold at least one face to face business meeting per quarter to conduct programmatic and budget business. Additional meetings may also be held to accomplish Commission business. In addition the Commission may create committees to study issues and make non-binding recommendations to the Commission for action.

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**Committees of the Denali Commission:** Committees shall meet as needed. It is the intent of the Commission that program or grant requests to the Commission be first referred to an appropriate committee for review. The Commission may delegate other duties to committees as appropriate. The committees of the Denali Commission are:

Infrastructure

Economic Development

Intergovernmental Coordination

Training

Budget and Audit

## **Conduct of Meetings**

**Presiding Officer** The Federal Co-Chair and State Co-Chair shall rotate the duties of presiding officer by turns at Commission meetings, and may invite other Commissioners to conduct or chair any particular meeting.

**Agenda** The Federal Co-Chair shall transmit the agenda, appropriate information, and data concerning agenda items to Commission members and pre-designated alternates at least 14 calendar days before each meeting, unless otherwise provided. Any matter not on the agenda may not be considered except where immediate consideration is required. Non-agenda items may be considered with

the consensus of Commissioners or upon a 2/3 vote to suspend the rules. Reasons for such action should be clearly stated on the record.

**Resolutions** Resolutions may be prepared under the supervision of the Federal Co-Chair at the request of any Commissioner. Any resolution prepared by other means shall be submitted to the Federal Co-Chair at least 21 days before the meeting at which it is to be considered by the Commission. A copy of each resolution shall be provided for each member of the Commission before consideration at any meeting. The requirements in this section may be waived by the affirmative vote of both Co-Chairs due to an emergency, or a situation that would be significantly detrimental to the Commission's work program.

**Rules of Proceedings** The chair at any meeting may move, second, and debate from the chair, and he or she shall not be deprived of any right to vote or of any other right, power, or duty of a Commission member by virtue of occupying the chair.

Except as otherwise specifically provided herein or otherwise by the Commission, Robert's Rules of Order shall govern the proceedings of the Commission.

**Recording decisions of the Commission** All decisions made in a meeting of the Commission shall be entered in the minutes. When a vote is taken the vote count shall be recorded. An affirmative decision regarding commitment of funds shall be considered an obligation of said funds.

**Minutes** The proceedings of Commission meetings may be electronically recorded. The Federal Co-Chair shall prepare and distribute to the Commission members written minutes of each meeting as soon as possible after the meeting, but no later than ten working days. The minutes of any meeting may be approved without formal reading.

**Certification of Resolutions** As soon as possible after voting by the Commission, the Federal Co-Chair shall, after providing the state Co-Chair up to ten working days for review, certify resolutions adopted by the Commission and distribute them to the Commission members and as otherwise directed by the Commission.

**Public Hearings** The Commission (one or more Commissioners) may conduct public hearings, as it deems appropriate for carrying out its functions. No public hearing shall be held without the consent of the Co-Chairs. Requirements for public notice, availability of

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**Order of Business at Commission Meetings** Unless otherwise provided by the Commission, the order of business at each meeting shall include:¶  
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Roll call;¶  
Welcoming comments by Co-Chairs and Commissioners;¶  
Review and approval of minutes of previous meetings;¶  
Adoption of agenda;¶  
Staff and/or sub-committee reports/recommendations;¶  
Summary of decision items before Commission; ¶  
Public comment; ¶  
Commission discussion of policy issues/action items - Commission;¶  
decisions; ¶  
Closing comments of Co-Chairs and Commissioners;¶  
Adjournment.¶  
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information to the public, and recording of public testimony is the same as previously outlined in this Section.

## **CHAPTER 5 - COMMISSION STRATEGIC PLAN AND ANNUAL WORKPLANS**

### **Section 5.1 Strategic Planning.**

**Commission Strategic Plan** The Denali Commission will develop a strategic plan and process to accomplish the purposes of the Denali Commission Act of 1998. The strategic plan will be consistent with state and federal law. This plan shall reflect appropriate elements of other State of Alaska and federal plans.

**Infrastructure Priority Setting** The strategic planning process will set broad priorities among categories of work established by the Commission. These broad priorities are referred to as themes. Examples of themes are energy and health care facilities. Themes will be used to focus attention and resources.

**Other Components of Strategic Plan** Purposes of the Commission in addition to infrastructure development include, but are not limited to; a) delivery of government services in the most cost-effective manner practicable, b) job training and, c) economic development. The strategic plan will set forth an approach to accomplish these purposes in a cost-effective manner and in accordance with priority systems approved by the Commission.

**Planning and Coordination** The Commission will be a catalyst to encourage local, regional, and statewide comprehensive assessment, planning and ranking of needed infrastructure improvements, economic development opportunities and training needs. Community-based and regionally supported comprehensive plans will be used to guide Commission decision-making.

### **Section 5.2 Annual Work Plan.**

In developing the annual work plan the Commission will be guided by the Commission strategic plan and will build on the work of both federal and state of Alaska agencies to identify statewide needs and to establish priorities. In doing so, the Commission will seek the support and involvement of affected local communities, governing bodies, businesses and other organizations. The Commission will encourage partnerships between government, non-profit organizations, and for-profit businesses to expedite sustainable economic and infrastructure development.



In accordance with the Act, an annual Work Plan will set forth the work to be accomplished in a given federal fiscal year with the proposed budget to accomplish that work. The work plan will serve as a budget document for federal Office of Management and Budget (OMB) purposes.

The upcoming federal fiscal year work plan will be prepared in draft for review by the Commission. It will then be subjected to a 30-day public comment period. Appropriate revisions will be made, a summary of responses to public comments will be prepared, and following Commission approval, the final work plan will be submitted to the Secretary of Commerce by September 30 or such earlier date as may be required by OMB each year. Work plan approval requires a consensus of the Commission or, in accordance with the Act, a favorable vote of a majority of the Commissioners and approval of the Federal Co-Chair.

Selection of specific projects for funding will be governed by the Commission work plan and will be guided by project priority systems, where they exist (i.e. state and federal agencies and regional organizations) and are consistent with Commission criteria. In the absence of existing project priority systems suitable for use by the Commission, the Commission will develop its own unless otherwise provided for in law.

### **Section 5.3 Identification of Distressed Areas.**

The following criteria shall be used to designate distressed communities or regions, and will be adjusted annually to reflect current data:

- 1) Per capita market income no greater than 67% of the U.S. average; and
- 2) Poverty rate at 150% of the U.S. average or greater; and
- 3) Three-year unemployment rate at 150% of the U.S. average  
or  
greater; or
- 4) Twice U.S. poverty rate and either (1) or (3) above.

Such designations for a fiscal year shall be based upon data available on March 31 of the preceding fiscal year.

## **CHAPTER 6 - BUDGET AND MANAGEMENT**

### **Section 6.1 Management Systems.**

The Act, as amended, provides that the Commission's Federal Co-Chair shall be responsible for carrying out the administrative functions of the Commission, for direction of the Commission staff and for such other duties as the Commission may assign. Accordingly, the Federal Co-Chair is hereby directed to establish and maintain a system of management for the Commission in accordance with the principles set forth in this chapter and in accordance with applicable federal laws. The Federal Co-Chair shall publish and keep current complete descriptions of the Commission's management system.

### **Section 6.2 Financial Management.**

**General** The Federal Co-Chair is responsible for the sound management of all Commission funds and to do so he/she shall establish and maintain a system of budgeting and financial management sufficient to ensure accountability for all funds appropriated to the Commission. The financial management system shall meet the requirements of the Act, comply with relevant federal accounting standards, and follow the best practices of the federal government in financial management. The Federal Co-Chair shall be responsible for making budget and financial reports available to the Commission on request and on a schedule consistent with the federal Office of Management and Budget requirements.

**Written Policies and Procedures** The Federal Co-Chair shall maintain, in writing, financial management policies and procedures including but not limited to the following: payments, travel management, purchasing and procurement, and property management.

**Records** The Federal Co-Chair shall maintain complete and appropriate records and documentation of all obligations, expenditures and other transactions in accordance with current federal standards and requirements. Records, except those that are considered confidential under federal law, shall be available for public review at the Commission office.

**Reporting** The Federal Co-Chair shall ensure the accurate and timely completion and submission of appropriate financial reports in accordance with federal requirements of the U.S. Treasury, the Office of Management and Budget and the Department of Commerce.

**Independent Audit** As required by General Accounting Office procedures, the Commission through the Budget and Audit Committee shall coordinate with the Inspector General to periodically select and designate qualified certified public accountants to make an audit of the financial accounts of the Commission. The Budget and Audit Committee will meet with auditors to receive the final audit report and discuss recommendations. The Budget and Audit Committee will report to the Commission and may make recommendations based on the audit report.

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**Annual Budget and Operations Plan:** Expenditures of Denali Commission funds, including the addition of staff positions, shall be authorized in an annual budget and operations plan adopted by the Denali Commission, and in accord with the Denali Commission Act and other federal statutes, guidelines and direction. Amendments, additions, or deletions to the annual budget and operations plan needed to recognize changes in revenue, or major changes in expenditures that would exceed budgeted amounts, may be made at any time by an affirmative vote of a majority of the Denali Commissioners at a regular or special meeting. Subject only to restrictions placed on the funds by the federal funding agency, the Federal Co-chair has complete authority to administer the annual budget a manner which will best achieve the approved operations plan.

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**Grants:** Award of grants or other assistance to entities must be within the purposes of the Denali Commission Act or other federal guidance and must be authorized in an annual budget and operations plan adopted by the Denali Commission for that purpose. Direct grants or assistance to entities, not including sub-grants of Denali Commission funds by Denali Commission partners such as the Alaska Energy Authority, must be first considered by the appropriate Commission Committee and then approved by the entire Commission.

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**Development of Annual Budget and Operations Plan:** The Federal Co-Chair shall prepare a draft budget for each fiscal year in accord with federal statutes and guidance as a part of the annual work plan and submit it to the Commission for review, consideration and approval. The draft budget shall be presented to the Denali Commissioners no later than June 1 for the following federal fiscal year. The Commission shall act on the draft no later than September 1 or the Federal Co-Chair's draft is adopted automatically. The annual budget and operations plan be amended by the Commission in response to the President's federal budget.

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**Annual Administrative Budget**  
The Federal Co-Chair shall prepare a budget for each fiscal year as a part of the annual work plan and submit it to the Commission for review and comment.

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Budget and Audit Committee - Incorporate the adopted charges in the Budget and Audit Committee Resolution here.

### Section 6.3 Procurement.

**Procurement** The Commission will utilize federal procedures for procurement actions. Recipients of Commission funds shall comply with all laws and policies applicable to the receiving organization.

### Section 6.4 Personnel.

#### Appointments

**Commission Staff** The Act authorizes the Federal Co-Chair to appoint, employ, remove, and provide for the compensation of Commission staff in accordance with the annual budget and applicable federal laws. It is Commission policy to provide equal employment opportunity for all persons and to prohibit discrimination because of race, color, religion, sex national origin, age or disability.

**Contractors and Consultants** In accordance with the Act, the Federal Co-Chair is authorized to appoint, or otherwise obtain the services of experts, consultants or other necessary personnel, whether individuals or organizations, for providing expert advice, technical or research assistance, or other necessary assistance for the Commission. Whenever possible the Commission will partner with federal, state, local and other organizations to obtain necessary services.

**Personnel System** The Federal Co-Chair shall establish and maintain a system of personnel management in accordance with the principles and requirements set forth in this section and applicable federal laws. The Federal Co-Chair shall consolidate all personnel policies and procedures into a Personnel Manual that shall be maintained and made readily available in the principal office of the Denali Commission.

#### Employee Conduct Principles

**Persons Subject** The Employee Conduct Principles set forth in this section are applicable to all employees, assigned or detailed staff, contractor, commissioner, or any other staff member of the Commission.

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**Maintaining Integrity of Commission Actions** The maintenance of the highest standards of honesty, integrity, impartiality, and conduct of employees of the Commission is essential to ensure the proper performance of Commission business and the maintenance of public confidence in the Commission. Therefore, every Commission employee shall avoid any action that might result in, or create the appearance of:

Using his/her Commission office or position for private gain;

Giving preferential treatment to any person;

Impeding Commission efficiency or economy;

Losing complete independence or impartiality;

Making a Commission decision outside official channels; or

Affecting adversely the confidence of the public in the integrity of the Commission.

**Ethical Requirements** The Federal Co-Chair shall include in the Commission Personnel Manual specific ethical prohibitions and requirements as necessary to ensure the integrity of Commission actions and promote the efficiency of Commission operations.

**Conflicts of Interest** The Act contains a broad criminal prohibition against Commission employees and others engaging in conflicts of personal financial interest. The Federal Co-Chair shall take actions to require that all members or staff responsible for making decisions or taking actions that have economic impact, disclose financial interests, outside employment, or other potential conflicts of interest affecting such decisions or actions. Annually, Denali Commissioners, shall file a statement of financial interest and other employment, using the confidential financial disclosure form prescribed by the Office of Government Ethics. The form shall be filed on or before October 31 of each year.

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**Political Activity** Commission employees shall abide by the applicable provisions of the Hatch Act found in Chapter 15 of

Title 5 of the United State Code, "Political Activity of Certain State and Local Employees." The Federal Co-Chairperson shall ensure that Commission staff is fully informed about the prohibitions and requirements of this law.

**Conduct of Investigations involving Denali Commission**

**employees:** The Federal Co-Chair is authorized to conduct, or cause to be conducted, investigations of the facts and circumstances of alleged violations of Commission policy. Such investigations shall be conducted in accordance with procedures the Federal Co-Chair shall establish and publish, taking into consideration the privacy and other rights of the parties involved.

**Conduct of Investigations involving Denali Commissioners acting within the scope of their duties as Denali**

**Commissioners:** The Commission, excluding any involved Commissioner, is authorized to conduct, or may cause to be conducted, investigations of the facts and circumstances of alleged violations of Commission policy by a Commissioner acting within the scope of their duties as a Denali Commissioner. The Commission may attempt to resolve the issue informally, or refer the issue to an appropriate authority. Such investigations shall take into consideration the privacy and other rights of the parties involved. If a federal employee is involved, the Inspector General or the appropriate federal agency will be asked to take the lead on the investigation, work with the Commission.

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**Staff Supervision** The Act provides that the Federal Co-Chair provides for staff supervision, and is responsible for the administrative and fiscal operations of the Commission. To carry out these responsibilities, the Act authorizes her/him to:

Establish rules and procedures, take action and delegate powers, duties, and responsibilities, as he/she deems necessary for efficient administration.

Prescribe, by directive, the internal organization of the Commission staff and group functions and duties according to major purposes insofar as practicable.

Exercise sole responsibility for assigning functions and duties to the Commission staff and for modifying assignments, and shared responsibility with the state

Co-Chair for assigning functions to the state staff assigned to the Commission.

Administer and supervise the administration of the Commission staff and prescribe and enforce rules and procedures for efficient management.

## Section 6.5 General Management Responsibilities of the Federal Co-Chair.

Negotiate, execute and administer contracts, leases, and interagency and intergovernmental arrangements.

Implement and enforce all policies and resolutions adopted by the Commission.

Serve as Secretary to the Commission, provide for electronic recording and maintaining of minutes of its proceedings, maintain an official list of Commission members and alternates and provide the official repository of Commission documents.

Perform such other functions vested in the Commission by the Act, as amended, as may be delegated or assigned to him/her by the Commission.

## Chapter 7 - Office of Inspector General

The Inspector General works with the Commissioners to the extent allowed by federal law. The Commissioners shall work with the Federal Co-Chair to select the Inspector General. The Commissioners may work with the Inspector General to select a financial auditor, review audits, administer and investigate complaints, evaluate the performance of the agency, find operational efficiencies, etc.

**Deleted:** The Office of Inspector General. is authorized under federal law to:¶

¶ Conduct and supervise audits and investigations relating to programs and operations of the Commission, to provide recommendations for promoting economy, efficiency and effectiveness in the administration of Commission programs;¶

¶ To detect and prevent fraud, waste and abuse in such programs and operations;¶

¶ To keep the Federal Co-Chair and Congress fully and currently informed about problems and deficiencies in the administration of Commission's programs and operations;¶

¶ The Inspector General shall carry out all activities and responsibilities required under the Inspector General Act of 1978, as amended.¶

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**Deleted:** In the interest of government efficiency, the requirements of this Chapter will be satisfied through an agreement for services with the Inspector General of the Appalachia Regional Commission or other similar organization. ¶

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